

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2020 OCT 13 PM 3:00

MICHAEL TOBIN,

Plaintiff,

v.

JIM BAKER, COMMISSIONER OF VERMONT
DEPARTMENT OF CORRECTIONS,
CENTURION OF VERMONT, LLC,
and UNKNOWN DEFENDANTS,

Defendants.

CLERK

BY LAW
DEPUTY CLERK

Case No. 2:19-cv-213

ORDER OF DISMISSAL

A review of the docket in this case reveals the following:

1. On August 21, 2020, the court adopted the July 15, 2020 Report and Recommendation and granted Defendants' motion to dismiss. Self-represented Plaintiff Michael Tobin was granted leave to amend his Complaint within twenty (20) days.
2. The court warned Plaintiff that failure to timely file an Amended Complaint would result in dismissal of his claims. (Doc. 13 at 3.)
3. No further filings have been received as of the date of this Order.

The Federal Rules of Civil Procedure authorize dismissal of an action when "the plaintiff fails to prosecute or to comply with these rules or a court order." Fed. R. Civ. P. 41(b). Although Rule 41(b) does not define "failure to prosecute," the Second Circuit has held that "[i]t can evidence itself . . . in an action lying dormant with no significant activity to move it." *Lyell Theatre Corp. v. Loews Corp.*, 682 F.2d 37, 42 (2d Cir. 1982). Because Plaintiff did not file an Amended Complaint, the court warned Plaintiff the

failure to file would result in dismissal of his case, and the case has been dormant for nearly two months, this case is hereby DISMISSED for failure to prosecute.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 13th day of October, 2020.

A handwritten signature in black ink, appearing to read 'Christina Reiss', written over a horizontal line.

Christina Reiss, District Judge
United States District Court